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EXAMINER

BOSWELL, BETH V

ART UNIT

PAPER NUMBER

3623

MAIL DATE

DELIVERY MODE

12/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/804,580

Applicant(s)

WAN ET AL.

Examiner

Beth V. Boswell

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a non-final office action in response to communications received 10/14/2008. Claim 6 was canceled. Claims 1-3, 9, 12, 15, and 18 have been amended. Claims 1-5 and 7-21 are pending.

Response to Amendment

2. Applicant's amendments are sufficient to overcome the 35 USC 112, second paragraph, rejections set forth in the previous office action.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to a particular machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876). The use of the specific machine or transformation of the article must impose meaningful limits on the claim's scope to impart patent-eligibility. See *Benson*, 409 U.S. at 71-72. Second the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity. See *Flook*, 437 U.S. at 590.

In the current case, claims 1-5 do not employ a particular machine. Thus, it is respectfully submitted that they are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2 and 7-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U.S. 6,067,525) in view of Johnson et al. (U.S. 2002/0006126).

As per claim 1, Johnson et al. ('525) teaches a real time sales support method comprising:
automatically monitoring an interaction between a sales agent and a customer (See column 12, lines 12-40 and 57-65, column 13, lines 7-20, column 16, lines 20-40, wherein the interaction of a sales agent and customer are monitored. See also column 2, lines 47-55);

automatically determining one or more contexts of the interaction and linking the current context to stored information relevant to the interaction (See column 2, lines 30-35 and 47-55, column 5, lines 1-15, column 8, lines 35-50, column 32, lines 55-67, wherein the context of the interaction is determined);

based on the one or more contexts, automatically retrieving the stored information relevant to the interaction (See column 5, lines 1-12, column 13, lines 1-20 and 45-50, column 14, lines 9-15, column 16, lines 20-40 and 50-53, wherein information is retrieved about the customer and the customer's requirements based on the context to tailor the information to the customer's needs. See specifically column 16, lines 55-65);

providing the retrieved information in an electronically presentable format to the sales agent to be shared with the customer (See column 12, lines 20-30, column 16, lines 20-55);

after providing the retrieved information, further monitoring the interaction and automatically determining one or more additional contexts of the interaction (See column 8, lines 35-50, column 16, lines 20-40 and 50-65, wherein the interaction is ongoing and tailored while the salesperson is interacting with the customer);

based on the one or more additional contexts, automatically retrieving additional stored information relevant to the interaction for the sales agent to share with the customer and providing the addition information to the sales agent to be shared with the customer (See column 8, lines 35-50, column 16, lines 20-40 and 50-65, column 32, lines 35-65, wherein the interaction is ongoing and tailored while the salesperson is interacting with the customer and wherein information is automatically retrieved as new information is collected).

However, Johnson et al. does not expressly disclose that automatically monitoring an interaction between a sales agent and a customer occurs by non-obtrusively detecting spoken words of at least one of the sales agent and the customer or that automatically determining one or more contexts of the interaction is performed by detecting context-identifying keywords among the spoken words to identify a current context.

Johnson et al. (2002/0006126) teaches non-obtrusively detecting spoken words of at least one user and detecting context-identifying keywords among the spoken words to identify a

current context (See at least paragraph 26 and 37-38, which discloses detecting spoken words and identifying the context based on the speech recognition).

Johnson et al. ('525) discloses a system that captures the interaction between a sales agent and a customer and based on the context of this interaction allows information to be retrieved and presented to reflect information captured. Johnson et al. ('525) in column 26, lines 45-55, further discusses using different languages or terminology when needed and further discloses that sales agents can be in the field at various geographic locations. Johnson et al. (2002/0006126) teaches capturing the context of spoken words of a user. It would have been obvious to one of ordinary skill in the art at the time of the invention in Johnson et al. ('525) to tailor the presentations and information by using the captured information of Johnson et al. (2002/0006126) in order to more efficiently tailor the time with the customer to the specific needs of the customer. Further, including the captured information of Johnson et al. (2002/0006126) in the system of Johnson et al. ('525) would have produced predictable results, such as an interaction and product presentation that met the specific needs of the user.

As per claim 2, Johnson et al. teaches wherein determining one or more contexts of the interaction comprises automatically identifying a geographic context of the interaction between the sales agent and the customer and retrieving the information based in part on the geographic context (See column 26, lines 45-55, wherein different language or terminology can be specified).

Claim 7 is substantially similar to claim 1 and is therefore rejected using the same art and rationale set forth above.

As per claim 8, Johnson et al. ('525) discloses a portable computer carried by a sales agent in the field, detecting portions of conversation between the sales agent and the customer and producing electrical signals in response thereto to identify a context of the conversation, and transmitting information about the produced electrical signals to a computer carried by the sales agent (See column 12, lines 12-40 and 57-65, column 13, lines 7-20, column 16, lines 20-40, wherein the interaction of a sales agent and customer are monitored. See column 2, lines 30-35 and 47-55, column 32, lines 55-67, wherein the context of the interaction is determined. See column 13, lines 1-20 and 45-50, column 14, lines 9-15, column 16, lines 20-40 and 50-65, wherein information is retrieved about the customer and the customer's requirements).

However, Johnson et al. ('525) does not expressly disclose a microphone carried by the sales agent to capture the conversation of wirelessly transmitting information to a remote, portable computer.

Johnson et al. (2002/0006126) discloses capturing spoken aspects of a conversation (paragraph 38). Johnson et al. (2002/0006126) further discloses the use of microphones and wireless communications (See paragraphs 17, 26, 32).

Johnson et al. ('525) discloses a system that captures the interaction between a sales agent and a customer and based on the context of this interaction allows information to be retrieved and presented to reflect information captured. Johnson et al. ('525) in column 26, lines 45-55, further discusses using different languages or terminology when needed and further discloses that sales agents can be in the field at various geographic locations. Johnson et al.

(2002/0006126) teaches capturing the context of spoken words of a user. It would have been obvious to one of ordinary skill in the art at the time of the invention in Johnson et al. ('525) to tailor the presentations and information by using the captured information of Johnson et al. (2002/0006126) in order to more efficiently tailor the time with the customer to the specific needs of the customer. Further, including the captured information of Johnson et al. (2002/0006126) in the system of Johnson et al. ('525) would have produced predictable results, such as an interaction and product presentation that met the specific needs of the user.

As per claim 9, Johnson et al. ('525) teaches processing the information at the processing device of the computer carried by the sales agent; and producing the audio or video presentation on a display of the computer carried by the sales agent (See column 10, lines 20-40, column 12, lines 12-30, and column 16, lines 20-40).

As per claim 10, Johnson et al. ('525) teaches transmitting a context-specific query to a server from the computer carried by the sales agent; based on the query, at the server retrieving the information from the memory; and transmitting a context-specific response based on the retrieved information from the server to the computer carried by the sales agent (See column 10, lines 20-40, wherein information is requested and retrieved by the sales agent in the field at the portable computer. See also column 6, lines 50-65).

However, Johnson et al. ('525) does not expressly disclose wirelessly transmitting information.

Johnson et al. (2002/0006126) discloses the use of wireless communications (See paragraphs 17, 26, 32).

Johnson et al. ('525) discloses a portable computer used by sales personnel in the field where the portable computer communicates with the system remotely. It would have been obvious to one of ordinary skill in the art at the time of the invention to include that the portable computer of Johnson et al. ('525) used the wireless communication of Johnson et al. (2002/0006126) because it would have yielded predictable results.

Claim 11 is substantially similar to claim 2 and is therefore rejected using the same art and rationale set forth above. However, neither Johnson et al. ('525) nor Johnson et al. (US 2002/0006126) expressly disclose radio signals.

Johnson et al. ('525) discloses a portable computer used by sales personnel in the field where the portable computer communicates with the system remotely and captures interactions with customers. Examiner takes official notice that radio signals are old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to include radio signals as a means for transmitting in Johnson et al. ('525) in order to more efficiently allow the remote computer to interact with the system.

Claim 12 is substantially similar to claim 1 and is therefore rejected using the same art and rationale set forth above.

As per claim 13, Johnson et al. ('525) discloses a portable computer including the data processing system and the display system, the portable computer configured to be carried by the sales agent (See column 10, lines 20-40). However, neither Johnson et al. ('525) nor Johnson et al. (US 2002/0006126) expressly disclose a headset in data communication with the portable computer and including the audio input device, the headset configured to be worn by the sales agent during the conversation between the sales agent and the customer.

Johnson et al. ('525) discloses a portable computer used by sales personnel in the field where the portable computer communicates with the system remotely and captures interactions with customers. Johnson et al. (US 2002/0006126) discloses a microphone to capture interaction. Examiner takes official notice that a headset is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a headset in connection with the portable computer of Johnson et al. ('525) in order to more efficiently capture the interaction of the sales agent with the customer.

Claim 14 is substantially similar to claim 2 and is therefore rejected using the same art and rationale. However, neither Johnson et al. ('525) nor Johnson et al. (2002/0006126) expressly disclose a radio circuit.

Claim 15 is substantially similar to claim 1 and is therefore rejected using the same art and rationale set forth above.

As per claim 16, Johnson et al. ('525) teaches an input/output device that is a portable computer carried by the sales agent (See column 10, lines 20-40, wherein information is requested and retrieved by the sales agent in the field at the portable computer. See also column 6, lines 50-65). However, neither Johnson et al. ('525) nor Johnson et al. (2002/0006126) expressly disclose a tablet personal computer.

Johnson et al. ('525) discloses a portable computer used by sales personnel in the field where the portable computer communicates with the system remotely. Further, the sales personnel gives presentations via the computer to customers. Examiner takes official notice that tablet personal computers are well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to include that the portable computer of

Johnson et al. ('525) is a tablet personal computer in order to more efficiently allow the sales agent to give presentations and take freeform notes (see column 13, lines 15-20).

As per claim 17, Johnson et al. ('525) teaches one or more grammars, the one or more grammars defining the specified conversational cues and the associated specific information relevant to the current informational need stored in the data store (See column 26, lines 45-55, wherein different language or terminology can be specified).

Claim 18 is substantially similar to claim 1 and is therefore rejected using the same art and rationale set forth above. See also column 10, lines 20-30, of Johnson et al. ('525) which discloses a portable computer.

As per claim 19, Johnson et al. ('525) discloses a portable computer carried by a sales agent in the field, transmitting detecting portions of conversation between the sales agent and the customer and producing electrical signals in response thereto to identify a context of the conversation, and transmitting information about the produced electrical signals to a computer carried by the sales agent (See column 12, lines 12-40 and 57-65, column 13, lines 7-20, column 16, lines 20-40, wherein the interaction of a sales agent and customer are monitored. See column 2, lines 30-35 and 47-55, column 32, lines 55-67, wherein the context of the interaction is determined. See column 13, lines 1-20 and 45-50, column 14, lines 9-15, column 16, lines 20-40 and 50-65, wherein information is retrieved about the customer and the customer's requirements).

As per claim 19, Johnson et al. ('525) discloses a portable computer carried by a sales agent in the field, transmitting signals based on the information about the conversation to a remotely located server; at the server, processing the signals to determine a conversational

context; and retrieving the information that might be relevant to the customer based on the conversational context from a database associated with the server (See column 12, lines 12-40 and 57-65, column 13, lines 7-20, column 16, lines 20-40, wherein the interaction of a sales agent and customer are monitored. See column 2, lines 30-35 and 47-55, column 32, lines 55-67, wherein the context of the interaction is determined. See column 13, lines 1-20 and 45-50, column 14, lines 9-15, column 16, lines 20-40 and 50-65, wherein information is retrieved about the customer and the customer's requirements).

Claim 20 is substantially similar to claims 3 and 4 and is therefore rejected using the same art and rationale set forth above.

Claim 21 is substantially similar to claim 5 and is therefore rejected using the same art and rationale set forth above.

6. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U.S. 6,067,525) in view of Johnson et al. (U.S. 2002/0006126) and in further view of Malec (U.S. 4,973,952).

As per claims 3 and 4, neither Johnson et al. ('525) nor Johnson et al. (U.S. 2002/0006126) disclose wherein identifying the geographic context comprises automatically estimating a geographic location of the sales agent and the customer on a retail sales floor or based on the geographic location of the sales agent and the customer, retrieving information about products for sale near the geographic location on the retail sales floor.

Malec discloses estimating a geographic location of the sales agent and the customer on a retail sales floor or based on the geographic location of the sales agent and the customer, retrieving information about products for sale near the geographic location on the retail sales floor (See at least column 1, lines 55-57, and column 2, lines 26-28).

Johnson et al. ('525) discloses interacting with a customer using customer specific and tailored information. It would have been obvious to one of ordinary skill in the art at the time of the invention to use location information to custom tailor the presentation presented the customer in order to provide more up to date and specific information to the customer.

Claim 5 is substantially similar to limitations of claims 1 and 3-4 and is therefore rejected using the same art and rationale set forth above.

Response to Arguments

7. Applicant's arguments with respect to claims 1-5 and 7-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication should be directed to Beth V. Boswell at telephone number (571)272-6737.

/Beth V. Boswell/

Supervisory Patent Examiner, Art Unit 3623